



# House of Representatives

General Assembly

**File No. 286**

February Session, 2022

House Bill No. 5204

*House of Representatives, April 4, 2022*

The Committee on Housing reported through REP. WILLIAMS of the 100th Dist., Chairperson of the Committee on the part of the House, that the bill ought to pass.

***AN ACT CONCERNING A NEEDS ASSESSMENT AND FAIR SHARE PLANS FOR MUNICIPALITIES TO INCREASE AFFORDABLE HOUSING.***

Be it enacted by the Senate and House of Representatives in General Assembly convened:

- 1 Section 1. (NEW) (*Effective July 1, 2022*) (a) As used in this section:
- 2 (1) "Affordable housing unit" means a dwelling unit conveyed by an  
3 instrument containing a covenant or restriction that requires such  
4 dwelling unit be sold or rented at or below a price intended to preserve  
5 such unit as housing for a low income household for the municipality in  
6 which such dwelling unit is located;
- 7 (2) "Commissioner" means the Commissioner of Housing;
- 8 (3) "Dwelling unit" means any house or building, or portion thereof,  
9 which is occupied, is designed to be occupied, or is rented, leased or  
10 hired out to be occupied, as a home or residence of one or more persons;
- 11 (4) "Low income household" means a person or family with an annual

12 income less than or equal to eighty per cent of the lesser of the state  
13 median income or area median income, as determined by the United  
14 States Department of Housing and Urban Development;

15 (5) "Very low income household" means a person or family whose  
16 income is less than or equal to fifty per cent of the lesser of the state  
17 median income or area median income, as determined by the United  
18 States Department of Housing and Urban Development;

19 (6) "Extremely low income household" means a person or family with  
20 an annual income less than or equal to thirty per cent of the lesser of the  
21 state median income or area median income, as determined by the  
22 United States Department of Housing and Urban Development;

23 (7) "Multifamily housing" means a residential building that contains  
24 three or more dwelling units;

25 (8) "Municipal fair share goal" means the portion of the minimum  
26 need for affordable housing units in a planning region, as determined  
27 pursuant to subsection (b) of this section, that is allocated to a  
28 municipality located within such planning region;

29 (9) "Municipal fair share plan" means a municipality's plan to achieve  
30 its municipal fair share goal;

31 (10) "Planning region" means a planning region of the state, as  
32 defined or redefined by the Secretary of the Office of Policy and  
33 Management or the secretary's designee under the provisions of section  
34 16a-4a of the general statutes;

35 (11) "Secretary" means the Secretary of the Office of Policy and  
36 Management; and

37 (12) "Supportive housing" means affordable housing units available  
38 to persons or families who qualify for assistance in accordance with  
39 section 17a-485c of the general statutes.

40 (b) (1) Not later than July 1, 2024, the secretary, in consultation with

41 the commissioner and, as may be determined by the secretary, experts,  
42 advocates and organizations with expertise in affordable housing, fair  
43 housing and planning and zoning, shall establish a methodology for (A)  
44 determining the minimum need for affordable housing units in each  
45 planning region; and (B) fairly allocating such need to the municipalities  
46 in each planning region to ensure adequate housing choice. Such  
47 methodology shall rely on figures from the Comprehensive Housing  
48 Affordability Strategy data set published by the United States  
49 Department of Housing and Urban Development, or from a similar  
50 source as may be determined by the secretary.

51 (2) In developing the methodology described in subdivision (1) of this  
52 subsection, the secretary shall consider (A) appropriate metrics of the  
53 minimum need for affordable housing units in a planning region to  
54 ensure adequate housing choice, including the number of extremely low  
55 income households in the planning region; and (B) appropriate factors  
56 for fairly allocating such need to the municipalities within each planning  
57 region, including the municipality's compliance with the requirements  
58 of sections 8-2 and 8-23 of the general statutes with regard to ensuring  
59 housing diversity and opportunities for multifamily housing and  
60 housing affordable to low and moderate income households.

61 (3) The methodology established by the secretary pursuant to  
62 subdivision (1) of this subsection shall increase the municipal fair share  
63 goal of a municipality if such municipality, when compared to other  
64 municipalities in the same planning region, has (A) more ratable real  
65 and personal property, as reflected by its equalized net grand list,  
66 calculated in accordance with the provisions of section 10-261a of the  
67 general statutes, for residential, commercial, industrial, public utility  
68 and vacant land; (B) a higher median income, based on data reported in  
69 the most recent United States decennial census or a similar source; (C) a  
70 lower percentage of its population that is below the federal poverty  
71 threshold, based on data reported in such census or similar source; or  
72 (D) a lower percentage of its population that lives in multifamily  
73 housing, based on data reported in such census or similar source.

74 (4) (A) Not later than July 1, 2024, and every ten years thereafter, the  
75 secretary, in consultation with the commissioner, shall, using the  
76 methodology established pursuant to this subsection, determine the  
77 minimum need for affordable housing units for each planning region  
78 and a municipal fair share goal for each municipality within each  
79 planning region.

80 (B) No municipal fair share goal determined pursuant to  
81 subparagraph (A) of this subdivision shall exceed twenty per cent of the  
82 occupied dwelling units in such municipality.

83 (c) (1) Not later than July 1, 2024, the secretary, in consultation with  
84 the commissioner and, as may be determined by the secretary, experts,  
85 advocates and organizations with expertise in affordable housing, fair  
86 housing and planning and zoning, shall establish (A) a process by which  
87 municipalities shall be required to develop, adopt, and submit to the  
88 secretary and the commissioner municipal fair share plans setting forth  
89 the actions the municipality will take to achieve its municipal fair share  
90 goal; (B) the required contents and timing for submission of such plans;  
91 (C) requirements to ensure that each municipal fair share plan provides  
92 for the creation of a sufficient supply of the different types of deed-  
93 restricted affordable housing required for meeting the minimum need  
94 for affordable housing units to ensure adequate housing choice,  
95 including sufficient allocations of (i) rental units, (ii) units that will be  
96 available to families, including units with two or three, or more  
97 bedrooms, (iii) units that will be affordable to very low income  
98 households and extremely low income households, and (iv) supportive  
99 housing units; and (D) policies ensuring that no municipal fair share  
100 plan creates, in the determination of the secretary, undue concentrations  
101 of households below the federal poverty threshold in the applicable  
102 planning region.

103 (2) Not later than July 1, 2024, and every ten years thereafter, the  
104 secretary, in consultation with the commissioner and, as may be  
105 determined by the secretary, experts, advocates and organizations with  
106 expertise in affordable housing, fair housing and planning and zoning,

107 shall publish and appropriately disseminate technical assistance  
108 materials to aid municipalities in preparing to comply with the  
109 requirements of this section and shall arrange for the provision of  
110 technical assistance briefings, trainings, webinars and such other  
111 guidance as the secretary deems necessary.

112 (d) Not later than January 1, 2025, and every ten years thereafter, each  
113 municipality shall prepare and adopt a municipal fair share plan that  
114 creates a realistic opportunity for achieving the municipality's fair share  
115 goal, in accordance with the process established pursuant to subsection  
116 (c) of this section.

117 Sec. 2. (NEW) (*Effective July 1, 2022*) Not later than January 1, 2026,  
118 the secretary, in consultation with the commissioner and, as may be  
119 determined by the secretary, experts, advocates and organizations with  
120 expertise in affordable housing, fair housing and planning and zoning,  
121 shall submit a report to the joint standing committees of the General  
122 Assembly having cognizance of matters relating to housing and  
123 planning and development, in accordance with section 11-4a of the  
124 general statutes, concerning (1) implementation of the provisions of  
125 section 1 of this act; (2) the status of municipalities' performance of the  
126 obligations established by section 1 of this act; and (3) recommendations  
127 regarding implementation, compliance and enforcement of section 1 of  
128 this act, including, but not limited to, consideration of approaches used  
129 in other states for implementing and ensuring compliance with similar  
130 obligations.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>July 1, 2022</i>	New section
Sec. 2	<i>July 1, 2022</i>	New section

**HSG**      *Joint Favorable*

*The following Fiscal Impact Statement and Bill Analysis are prepared for the benefit of the members of the General Assembly, solely for purposes of information, summarization and explanation and do not represent the intent of the General Assembly or either chamber thereof for any purpose. In general, fiscal impacts are based upon a variety of informational sources, including the analyst's professional knowledge. Whenever applicable, agency data is consulted as part of the analysis, however final products do not necessarily reflect an assessment from any specific department.*

**OFA Fiscal Note**

**State Impact:**

Agency Affected	Fund-Effect	FY 23 \$	FY 24 \$
State Comptroller - Fringe Benefits <sup>1</sup>	GF - Cost	Up to 70,566	Up to 141,112
Policy & Mgmt., Off.	GF - Cost	Up to 374,083	Up to \$348,166

Note: GF=General Fund

**Municipal Impact:**

Municipalities	Effect	FY 23 \$	FY 24 \$
Various Municipalities	STATE MANDATE <sup>2</sup> - Cost	See Below	See Below

**Explanation**

The bill requires the Office of Policy and Management (OPM), in consultation with the Department of Housing (DOH), to establish and administer a program of new affordable housing goals statewide.

The bill requires OPM to 1) establish a methodology for determining each municipality's fair share of affordable housing units; 2) establish a process for municipalities to create and submit plans for attaining their fair share, and; 3) provide assistance and training to municipalities to

<sup>1</sup>The fringe benefit costs for most state employees are budgeted centrally in accounts administered by the Comptroller. The estimated active employee fringe benefit cost associated with most personnel changes is 40.53% of payroll in FY 23.

<sup>2</sup> State mandate is defined in Sec. 2-32b(2) of the Connecticut General Statutes, "state mandate" means any state initiated constitutional, statutory or executive action that requires a local government to establish, expand or modify its activities in such a way as to necessitate additional expenditures from local revenues.

assist them in complying with the bill's requirements.

It is anticipated that OPM will need to hire a community development director, staff attorney and planning specialist, for an annual cost of \$489,278 (\$348,166 in salary and \$141,122 in fringe). It is anticipated that annualized costs would first occur in FY 24. Costs of up to \$244,639 could be incurred in FY 23, depending on the timing of hiring.

The bill additionally results in up to \$200,000 in FY 23 consulting costs associated with initial development of the fair share housing methodology.

The bill requires municipalities to develop plans for achieving its fair share housing goals. Small municipalities with limited administrative capacity may need to hire additional staff to develop these plans.

### ***The Out Years***

The annualized ongoing fiscal impact identified above would continue into the future subject to implementation of municipal fair share housing plans.

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**OLR Bill Analysis****HB 5204*****AN ACT CONCERNING A NEEDS ASSESSMENT AND FAIR SHARE PLANS FOR MUNICIPALITIES TO INCREASE AFFORDABLE HOUSING.*****SUMMARY**

This bill requires the Office of Policy and Management (OPM) secretary and the Department of Housing (DOH) commissioner to assess the affordable housing need in each of the state's planning regions, allocate this need to municipalities, and require that municipalities plan to meet the affordable housing need allocated to them. In carrying out certain requirements under the bill, the OPM secretary must consult with experts, advocates, and organizations with expertise in affordable housing, fair housing, and planning and zoning, as determined by the secretary (hereafter, "housing experts").

Specifically, the bill requires the OPM secretary, in consultation with the DOH commissioner and housing experts, to do the following by July 1, 2024:

1. establish a fair share methodology for (a) determining the minimum need for affordable housing units in each of the state's planning regions and (b) fairly allocating a portion of this need to the municipalities within each planning region to ensure adequate housing choice (i.e., setting municipal fair share goals);
2. establish a process requiring municipalities to develop, adopt, and submit to the secretary and commissioner plans to meet their municipal fair share goals (i.e., municipal fair share plans); and
3. (a) publish and disseminate technical assistance materials and arrange for related briefings, trainings, and webinars to assist municipalities in complying with the bill's requirements and (b)

provide this technical assistance and training every ten years thereafter.

The bill requires the OPM secretary, in consultation with the DOH commissioner, to determine by July 1, 2024, the minimum need for affordable housing units in each planning region and corresponding municipal fair share goals using the fair share methodology. The number of affordable housing units set by these goals cannot exceed 20% of a municipality's occupied dwelling units and must be recalculated every ten years. Under the bill, an "affordable housing unit" is a dwelling unit conveyed by an instrument containing a covenant or restriction (i.e., restrictive deed) that requires that the unit be sold or rented at or below a price intended to preserve the unit for a low-income household.

Additionally, the bill requires each municipality, by January 1, 2025, and every ten years thereafter, to prepare and adopt a municipal fair share plan that creates a realistic opportunity for achieving the municipality's fair share goal.

Finally, the bill requires the OPM secretary, in consultation with the DOH commissioner and housing experts, to report to the Housing and Planning and Development committees by January 1, 2026, on (1) the implementation of the bill's requirements; (2) the status of municipalities' compliance; and (3) recommendations for implementation, compliance, and enforcement, including approaches used in other states where municipalities have similar obligations.

EFFECTIVE DATE: July 1, 2022

## **FAIR SHARE METHODOLOGY**

### ***Development***

In developing the fair share methodology, the bill requires the OPM secretary, in consultation with the DOH commissioner, to consider the following:

1. appropriate metrics of the minimum need for affordable housing

units in a planning region, including the number of extremely low-income households in the region, to ensure adequate housing choice and

2. appropriate factors for fairly allocating this need among the municipalities within each planning region to set municipal fair share goals, including a municipality's compliance with statutes requiring its zoning regulations and plan of conservation and development to promote economic housing diversity and provide for the development of multifamily housing opportunities.

Under the bill, "low-," "very low-," and "extremely low-income households" mean those with an income at or below 80%, 50%, or 30%, respectively, of the state median income or the U.S. Department of Housing and Urban Development's (HUD) area median income, whichever is less.

### **Required Components**

The bill requires that under the fair share methodology, a municipal fair share goal generally be increased, relative to other municipalities in the planning region, based on the following factors:

1. higher equalized net grand list (i.e., an estimate of the market value of all taxable property in a municipality);
2. higher median income;
3. lower federal poverty rate; and
4. lower population share residing in multifamily housing (i.e., residential buildings with at least three dwelling units).

These data must come from the most recent U.S. decennial census or a similar source, except for the equalized net grand list data, which must be based on OPM's calculations of these figures for the purpose of educational equalization grants.

The fair share methodology must generally rely on figures from HUD's Comprehensive Housing Affordability Strategy data set or a similar source as determined by the OPM secretary.

## **MUNICIPAL FAIR SHARE PLANS**

### ***Required Components***

The bill requires the OPM secretary, in consultation with the DOH commissioner and housing experts, to establish the following by July 1, 2024:

1. a process requiring municipalities to develop and adopt municipal fair share plans and submit them to the secretary and commissioner;
2. requirements for the content and submission of these plans;
3. requirements ensuring that each plan provides for the creation of enough affordable housing for the municipality to meet its municipal fair share goal, including (a) rental units; (b) units available to families, including those with two, three, or more bedrooms; (c) units affordable to very low- and extremely low-income households; and (d) affordable housing units available to individuals or families with special needs or that are homeless or at risk of homelessness (i.e., supportive housing); and
4. policies ensuring that no municipal fair share plan creates undue concentrations of households living in poverty within a planning region as determined by the OPM secretary.

## **BACKGROUND**

### ***Planning Regions***

In practice, the boundaries of the state's nine planning regions are the same as those of its regional councils of government, which serve as the formal governance structures of the planning regions.

## **COMMITTEE ACTION**

Housing Committee

Joint Favorable

Yea 10 Nay 5 (03/15/2022)